

106TH CONGRESS  
2D SESSION

# S. 2761

To fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and to provide administrative subpoena authority.

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## IN THE SENATE OF THE UNITED STATES

JUNE 21, 2000

Mr. LEAHY (for himself and Mr. KOHL) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To fund task forces to locate and apprehend fugitives in Federal, State, and local felony criminal cases and to provide administrative subpoena authority.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

### 3   **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Capturing Criminals  
5   Act of 2000”.

### 6   **SEC. 2. FUGITIVE APPREHENSION TASK FORCES.**

7       (a) IN GENERAL.—The Attorney General is author-  
8   ized to establish, upon consultation with the Secretary of  
9   the Treasury and appropriate law enforcement officials in

1 the States, Fugitive Apprehension Task Forces, consisting  
 2 of Federal, State, and local law enforcement authorities  
 3 in designated regions of the United States, to be coordi-  
 4 nated by the Director of the United States Marshals Serv-  
 5 ice, for the purpose of locating and apprehending fugitives,  
 6 as defined by section 1075 of title 18, United States Code,  
 7 as added by this Act.

8 (b) AUTHORIZATION OF APPROPRIATIONS.—There  
 9 are authorized to be appropriated to the United States  
 10 Marshals Service to carry out the provisions of this section  
 11 \$20,000,000 for fiscal year 2001, \$5,000,000 for fiscal  
 12 year 2002, and \$5,000,000 for fiscal year 2003.

13 (c) OTHER FEDERAL AND STATE LAW.—Nothing in  
 14 this section shall be construed to limit the authority under  
 15 any other provision of Federal or State law to locate or  
 16 apprehend a fugitive .

17 **SEC. 3. ADMINISTRATIVE SUBPOENAS TO APPREHEND FU-**  
 18 **GITIVES.**

19 (a) IN GENERAL.—Chapter 49 of title 18, United  
 20 States Code, is amended by adding at the end the fol-  
 21 lowing:

22 **“§ 1075. Administrative subpoenas to apprehend fugi-**  
 23 **tives**

24 “(a) DEFINITIONS.—In this section—

25 “(1) the term ‘fugitive’ means a person who—

1           “(A) having been accused by complaint, in-  
2           formation or indictment, or having been con-  
3           victed of committing, a felony under Federal  
4           law, flees from or evades (or attempts to flee  
5           from or evade) the jurisdiction of the court with  
6           jurisdiction over the felony;

7           “(B) having been accused by complaint, in-  
8           formation or indictment, or having been con-  
9           victed of committing, a felony under State law,  
10          flees from or evades (or attempts to flee from  
11          or evade) the jurisdiction of the court with ju-  
12          risdiction over the felony;

13          “(C) escapes from lawful Federal or State  
14          custody after having been accused by complaint,  
15          information or indictment, or convicted, of com-  
16          mitting a felony under Federal or State law; or

17          “(D) is in violation of paragraph (2) or (3)  
18          of the first undesignated paragraph of section  
19          1073;

20          “(2) the term ‘investigation’ means, with re-  
21          spect to a State fugitive described in subparagraph  
22          (B) or (C) of paragraph (1), an investigation in  
23          which there is reason to believe that the fugitive fled  
24          from or evaded (or attempted to flee from or evade)  
25          the jurisdiction of the court, or escaped from cus-

1        today, in or affecting, or using any facility of, inter-  
2        state or foreign commerce, or as to whom an appro-  
3        priate law enforcement officer or official of a State  
4        or political subdivision has requested the Attorney  
5        General to assist in the investigation, and the Attor-  
6        ney General finds that the particular circumstances  
7        of the request give rise to a Federal interest suffi-  
8        cient for the exercise of Federal jurisdiction under  
9        section 1075; and

10            “(3) the term ‘State’ means a State of the  
11        United States, the District of Columbia, and any  
12        commonwealth, territory, or possession of the United  
13        States.

14            “(b) SCOPE.—In any investigation with respect to the  
15        apprehension of a fugitive, the Attorney General may sub-  
16        poena witnesses for the purpose of the production of any  
17        records (including books, papers, documents, electronic  
18        data, and other tangible and intangible items that con-  
19        stitute or contain evidence) that the Attorney General  
20        finds, based upon articulable facts, are relevant to dis-  
21        cerning the fugitive’s whereabouts. A subpoena under this  
22        subsection shall describe the records or items required to  
23        be produced and prescribe a return date within a reason-  
24        able period of time within which the records or items can  
25        be assembled and made available.

1       “(c) JURISDICTION.—The attendance of witnesses  
2 and the production of records may be required from any  
3 place in any State or any other place subject to the juris-  
4 diction of the United States at any designated place where  
5 the witness is served with a subpoena, except that a wit-  
6 ness shall not be required to appear more than 500 miles  
7 distant from the place where the witness was served. Wit-  
8 nesses subpoenaed under this section shall be paid the  
9 same fees and mileage that are paid witnesses in the  
10 courts of the United States.

11       “(d) SERVICE.—A subpoena issued under this section  
12 may be served by any person designated in the subpoena  
13 as the agent of service. Service upon a natural person may  
14 be made by personal delivery of the subpoena to that per-  
15 son or by certified mail with return receipt requested.  
16 Service may be made upon a domestic or foreign corpora-  
17 tion, a partnership, or other unincorporated association  
18 that is subject to suit under a common name, by delivering  
19 the subpoena to an officer, a managing or general agent,  
20 or to any other agent authorized by appointment or by  
21 law to receive service of process. The affidavit of the per-  
22 son serving the subpoena entered on a true copy thereof  
23 by the agent of service shall be proof of service.

24       “(e) ENFORCEMENT.—

1           “(1) NONCOMPLIANCE.—In the case of the con-  
2           tumacy by or refusal to obey a subpoena issued to  
3           any person, the Attorney General may invoke the aid  
4           of any court of the United States within the jurisdic-  
5           tion of which the investigation is carried on or of  
6           which the subpoenaed person is an inhabitant, or in  
7           which he carries on business or may be found, to  
8           compel compliance with the subpoena. The court  
9           may issue an order requiring the subpoenaed person  
10          to appear before the Attorney General to produce  
11          records if so ordered. Any failure to obey the order  
12          of the court may be punishable by the court as con-  
13          tempt thereof. All process in any such case may be  
14          served in any judicial district in which the person  
15          may be found.

16          “(2) RIGHTS OF A SUBPOENA RECIPIENT.—Not  
17          later than 20 days after the date of service of an ad-  
18          ministrative subpoena under this section upon any  
19          person, or at any time before the return date speci-  
20          fied in the subpoena, whichever period is shorter,  
21          such person may file, in the district court of the  
22          United States for the judicial district within which  
23          such person resides, is found, or transacts business,  
24          a petition to modify or quash such subpoena on  
25          grounds that—

1           “(A) the terms of the subpoena are unrea-  
2           sonable or unnecessary;

3           “(B) the subpoena fails to meet the re-  
4           quirements of this section; or

5           “(C) the subpoena violates the constitu-  
6           tional rights or any other legal right or privilege  
7           of the subpoenaed party.

8           “(3) TIME FOR RESPONSE.—The time allowed  
9           for compliance with a subpoena in whole or in part  
10          shall be suspended during the pendency of a petition  
11          filed under paragraph (2). Such petition shall speci-  
12          fy the grounds upon which the petitioner relies in  
13          seeking relief.

14          “(f) DELAYED NOTICE.—

15          “(1) IN GENERAL.—Where an administrative  
16          subpoena is issued under this section to a provider  
17          of electronic communication service (as defined in  
18          section 2510 of this title) or remote computing serv-  
19          ice (as defined in section 2711 of this title), the At-  
20          torney General may—

21                 “(A) in accordance with section 2705(a) of  
22                 this title, delay notification to the subscriber or  
23                 customer to whom the record pertains; and

24                 “(B) apply to a court, in accordance with  
25                 section 2705(b) of this title, for an order com-

1 manding the provider of electronic communica-  
 2 tion service or remote computing service not to  
 3 notify any other person of the existence of the  
 4 subpoena or court order.

5 “(2) SUBPOENAS FOR FINANCIAL RECORDS.—If  
 6 a subpoena is issued under this section to a financial  
 7 institution for financial records of any customer of  
 8 such institution, the Attorney General may apply to  
 9 a court under section 1109 of the Right to Financial  
 10 Privacy Act of 1978 (12 U.S.C. 3409) for an order  
 11 to delay customer notice as otherwise required.

12 “(3) NONDISCLOSURE REQUIREMENTS.—Ex-  
 13 cept as provided in paragraphs (1) and (2), the At-  
 14 torney General may apply to a court for an order re-  
 15 quiring the party to whom an administrative sub-  
 16 poena is directed to refrain from notifying any other  
 17 party of the existence of the subpoena or court order  
 18 for such period as the court deems appropriate. The  
 19 court shall enter such order if it determines that  
 20 there is reason to believe that notification of the ex-  
 21 istence of the administrative subpoena will result  
 22 in—

23 “(A) endangering the life or physical safety  
 24 of an individual;

25 “(B) flight from prosecution;



1                   “(C) destruction of or tampering with evi-  
2                   dence;

3                   “(D) intimidation of potential witnesses; or

4                   “(E) otherwise seriously jeopardizing an  
5                   investigation or undue delay of a trial.

6           “(g) IMMUNITY FROM CIVIL LIABILITY.—Any per-  
7   son, including officers, agents, and employees, who in good  
8   faith produce the records or items requested in a subpoena  
9   shall not be liable in any court of any State or the United  
10   States to any customer or other person for such produc-  
11   tion or for nondisclosure of that production to the cus-  
12   tomer, in compliance with the terms of a court order for  
13   nondisclosure.

14          “(h) DELEGATION.—The Attorney General and the  
15   Secretary of the Treasury shall issue guidelines governing  
16   the issuance of administrative subpoenas. Such guidelines  
17   shall mandate that administrative subpoenas may be  
18   issued only after review and approval of senior supervisory  
19   personnel within the Department of Justice and the De-  
20   partment of the Treasury.

21          “(i) REPORT.—The Attorney General shall report in  
22   January of each year to the Committees on the Judiciary  
23   of the Senate and the House of Representatives on the  
24   number of administrative subpoenas issued under this sec-  
25   tion, whether each matter involved a fugitive from Federal

1 or State charges, and identification of the agency issuing  
 2 the subpoena and imposing the charges. This reporting re-  
 3 quirement shall terminate in 3 years after enactment.”.

4 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
 5 The analysis for chapter 49 of title 18, United States  
 6 Code, is amended by adding at the end the following:

“1075. Administrative subpoenas to apprehend fugitives.”.

7 **SEC. 4. STUDY AND REPORT OF THE USE OF ADMINISTRA-**  
 8 **TIVE SUBPOENAS.**

9 Not later than December 31, 2001, the Attorney  
 10 General shall complete a study on the use of administra-  
 11 tive subpoena power by executive branch agencies or enti-  
 12 ties and shall report the findings to the Committees on  
 13 the Judiciary of the Senate and the House of Representa-  
 14 tives. Such report shall include—

15 (1) a description of the sources of administra-  
 16 tive subpoena power and the scope of such subpoena  
 17 power within executive branch agencies;

18 (2) a description of applicable subpoena en-  
 19 forcement mechanisms;

20 (3) a description of any notification provisions  
 21 and any other provisions relating to safeguarding  
 22 privacy interests;

23 (4) a description of the standards governing the  
 24 issuance of administrative subpoenas; and

1           (5) recommendations from the Attorney Gen-  
2       eral regarding necessary steps to ensure that admin-  
3       istrative subpoena power is used and enforced con-  
4       sistently and fairly by executive branch agencies.

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